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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,603	10/22/2003	Frederic Duquet	Q73802	6096
23373	7590	04/25/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/689,603

Applicant(s)

DUQUET, FREDERIC

Examiner

LIEN TM NGO

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3754

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,11,13-15,17 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-9,16,18,20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/22/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's election without traverse of Species I, claims 1-9, 11 and 13-21, claims 1 and 14 are generic, in the reply filed on 2/9/06 is acknowledged.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 13-15, 17, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Rendle et al. (2004/536). Rendle et al. disclose, in figs. 2 and 3, A fluid dispenser comprising a fluid reservoir 18 of variable volume, said reservoir defining at least one movable wall 12, 14 that can be moved to vary the volume of the reservoir; a dispensing orifice 20 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 16 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone 12 and a backing zone 14, the

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press zone being moved towards the backing zone generating an increase and then a decrease in the volume of the reservoir; and a removable closure member 42 is initially positioned over the dispensing orifice.

4. Claims 1, 2, 13-15, 17, 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Beguhn (4,236,652). Beguhn discloses, in figs. 3 and 4, A fluid dispenser comprising a fluid reservoir 13 of variable volume, said reservoir defining at least one movable wall 11, 12 that can be moved to vary the volume of the reservoir; a dispensing orifice 16 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 30 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone 12 and a backing zone 11, the press zone being moved towards the backing zone generating an increase and then a decrease in the volume of the reservoir; and a removable closure member (core area) is initially positioned over the dispensing orifice.

5. Claims 1, 2, 11, 13-15, 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Redmond et al. (4,493,574). Redmond et al. disclose, in figs 8 and 9, a fluid dispenser comprising a fluid reservoir (22) of variable volume, said reservoir defining at least one movable wall that can be moved to vary the volume of the reservoir; a dispensing orifice 26 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the

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reservoir is reduced; an actuating means 12A, 12B making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; and a removable closure member (core area) is initially positioned over the dispensing orifice; and the dispensing orifice further comprises a piece of porous material 66.

***Allowable Subject Matter***

6. Claims 3-9, 16, 18, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL MAR can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO  
Primary Examiner  
Art Unit 3754



April 20, 2006